IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.396 OF 2003

The State of Maharashtra ...Appellant

vs.

Pritam Pravin Pagariya ...Respondent

Mr.U.V.Nikam, A.P.P. for the Appellant
Mr.S.R.Page i/b Mr.S.G.Surana for the Respondent

CORAM: A.S.OKA,J.
DATE : SEPTEMBER 5,2006.

P.C.:

1. Heard the learned A.P.P. on the prayer for grant of leave. The Respondent was sought to be prosecuted for the offence punishable under sections 279,338 and 337 of the Indian Penal Code. According to the case of the prosecution, on 29th October 1998 at about 10.30 p.m. at Premnagar Society, Market Yard, Pune while the accused was driving the motor car in reverse gear gave a dash to the motor cycle of the complainant. As a result of rash and negligent driving on the part of the accused, the complainant received grievous hurt and his daughter who was sitting as a pillion rider received simple hurt. The prosecution has resulted in acquittal.

2. The learned A.P.P. submitted that the complainant has disclosed the name of the accused in supplementary statement and identified the accused person in the Court at the time of trial. He pointed out that there is evidence of the eye witnesses which could not have been discarded.

3. I have considered the submissions. It appears from the record that when the F.I.R. was registered on 29th October 1998, the complainant did not disclose the name of the accused. According to the complainant he committed an error while stating the registration number of the vehicle. On 31st October 1998 in his supplementary statement, the complainant disclosed the name of one Paresh Pagaria as an accused. However, the person who was prosecuted was not the said Paresh Pagaria but his brother Pritam Pagaria. The complainant admitted in cross examination that he personally knew both Paresh and Pritam. None of the other witnesses were personally knowing the accused or his brother.

4. The case of the complainant has been disbelieved on the ground that initially on the date of accident, the complainant did not disclose the name of the accused and did not disclose the correct registration number of the vehicle. A serious doubt is created about the prosecution story as two days after the accident, in a supplementary statement, the complainant disclosed the name of the brother of the accused as an accused person. However, the said brother was not prosecuted and the Respondent herein was prosecuted. The complainant knew both of them very well. Considering all these aspects, the learned Magistrate has passed the order of acquittal.

5. It is obvious that the view taken by the learned Magistrate is a possible view which could have been taken on the basis of evidence on record. No case is made out for grant of leave. Appeal is dismissed.

JUDGE